

Arrests for Debt Abolition (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Preamble.

As to Mesne Process.

Section.

1. Arrest on Mesne Process abolished.
2. A Judge of the Superior Courts of Law may order a Defendant's Goods to be seized before Judgment in certain Cases.
3. Goods so seized may be released by the Defendant on certain Terms.
4. Defendant may apply to a Judge to have the Goods seized restored him, and the Judge may grant or refuse the Order, and his Decision may be appealed against.
5. Sections 2, 3, 4, and 5, of 3 & 4 Vict. c. 105. repealed, save as to pending Cases.

As to Final Process.

6. Arrest on Final Process abolished.
7. A Debt for 20*l.* exclusive of Costs to be a good Petitioning Creditor's Debt in Bankruptcy.
8. Certain Property of Debtors shall be liable to be attached under this Act, in addition to Property liable to be attached under former Acts.
9. Interest on Land or growing Crops not to be seized or sold under a F. fa.
10. Sections 116, 117, and 118, of 14 & 15 Vict. c. 57. repealed.

As to Procedure in Insolvency.

11. How a Debtor under this Act shall proceed to get the Benefit of the Insolvent Acts, and what he shall state in his Petition.
12. On filing Petition, Debtor to file a Schedule and a General and Special Balance Sheet.
13. The Insolvent Court to deal with Debtors Petitions filed under this Act as with Debtors Petitions filed under Insolvent Act.

[Bill 126.]

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14. In certain Cases a Creditor to have liberty to file a Petition to have a Debtor's Property administered in Insolvency.
15. Petition of Creditor to be verified, and to be dealt with by the Court as a Creditor's Petition is dealt with under the Insolvent Act.
16. Court may order Satisfaction if Creditor's Petition fraudulently or maliciously filed.
17. Chairman of Quarter Sessions to have Jurisdiction on Petitions filed under this Act as on Petitions filed under Insolvent Act.

As to Discharge of Insolvents and Bankrupts.

18. Every Discharge of an Insolvent to specify whether it be an absolute Discharge or not.
19. An absolute Discharge shall free future acquired Property of an Insolvent.
20. An Insolvent Debtor entitled to an absolute Discharge if he makes full Disclosure and surrenders all Property, and pays 6s. 8d. in the Pound Dividend.
21. No Debtor to be imprisoned by the Insolvent Court, unless for certain Matters, when declared entitled to be discharged.
22. No Discharge of Insolvent or Certificate of Bankrupt to free future Property unless a 5s. Dividend be paid to the Creditors, or Three Fourths of the Creditors assent.

General Provisions.

23. Judges of the Common Law Courts to frame Writs.
 24. General Orders to be made by the Judges of the Court of Bankruptcy and Insolvency to carry this Act into execution.
 25. Short Title of the Act.
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TO

Abolish Arrest for Debt on Mesne and Final Process in Ireland, and to make other Provisions in relation thereto.

WHEREAS it is expedient altogether to abolish Arrest upon Mesne and Final Process in Ireland, and to make other Provisions in relation thereto: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble.

As to Mesne Process.

1. From and after the passing of this Act no Person shall be arrested upon Mesne Process in any Action in any Superior Court of Law in Ireland.

Arrest on Mesne Process abolished.

2. If at any Time after the Commencement of any Action in any Superior Court of Law in Ireland, and before Final Judgment, it shall be proved to the Satisfaction of a Judge of any of the said Superior Courts of Law in Ireland, on the Affidavit of the Plaintiff or of some other Person, that the Plaintiff has a Cause of Action for Twenty Pounds or upwards against the Defendant, and that there

A Judge of the Superior Court of Law may order a Defendant's Goods to be seized before Judgment in certain Cases.

[Bill 126.]

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is probable Cause for believing that the Defendant is about to sell, remove, conceal, or otherwise dispose of all or any of his Goods or Chattels, with Intent to defeat or delay the Plaintiff or his other Creditors, it shall be lawful for such Judge by special Order to direct that a Writ of *Fieri facias* shall be forthwith issued, directed to the Sheriff or Coroner of the County or County of the City in which the Goods and Chattels of the Defendant may then be, marked for such Amount as the said Judge shall deem proper; and the Sheriff or other proper Officer shall, on the Delivery to him of such Writ, forthwith seize the Goods and Chattels of the Defendant, or such Portion thereof as may be sufficient to satisfy and pay the Amount marked on such Writ, wherever the same may be found within his Jurisdiction, and them safely keep to abide the Order of the Court in which such Action shall be pending, or until released by the Defendant as hereafter mentioned.

Goods so seized may be released by the Defendant on certain Terms.

3. If at any Time after such Seizure the Defendant shall deposit with the Sheriff or other proper Officer who made the same the Sum marked on the Writ under which the Seizure was made, together with the Sum of *Nine Pounds* for Costs, or shall give to the said Sheriff or other proper Officer good Security, by the Bond of himself and Two or more responsible Parties, for the Sum marked on said Writ and Costs as aforesaid, it shall be lawful for the said Sheriff or other proper Officer to deliver back to the Defendant the Goods and Chattels seized by him under said Writ.

Defendant may apply to a Judge to have the Goods seized restored to him, and the Judge may grant or refuse the Order, and his Decision may be appealed against.

4. It shall be lawful for any Person whose Goods or Chattels may be seized under any marked Writ under the Provisions of this Act to apply at any Time after such Seizure to a Judge of One of the Superior Courts of Law in Ireland, or to the Court in which the Action shall be pending in which the Writ shall have been issued, for a Rule on the Plaintiff in such Action to show Cause why the Goods and Chattels so seized should not be released from Seizure and delivered back to the Party making the Application; and it shall be lawful for such Judge or Court to refuse such Rule, or, if granted, to make absolute or discharge the same, and to order the Costs of such Application to be paid by either Party, or to make such Order therein as to such Judge or Court shall seem fit; provided that any such Order made by a Judge may be discharged or varied by the Court on Application made thereto by either Party dissatisfied with such Order.

Sections 2, 3, 4, and 5 of 2 & 4 Vict. c. 106, save as to pending Cases.

5. Sections 2, 3, 4, and 5 of the Act passed in the Third and Fourth Years of the Reign of Her present Majesty, intitled "An Act for abolishing Arrest on Mesne Process in Civil Actions,"

- " Actions, except in certain Cases, for extending the Remedies of
 " Creditors against the Property of Debtors, and for the further
 " Amendment of the Law and the better Advancement of Justice,
 " in Ireland," are hereby repealed, but such Repeal shall not affect
 5 any Proceeding pending, or any Right that has arisen or may arise,
 in respect of any Matter or Thing done under or by virtue of any
 of said Sections.

As to Final Process.

6. From and after the passing of this Act no Person shall be
 10 taken or charged in Execution upon any Judgment, Decree, or
 Order obtained or made in any of the Superior or Inferior Courts
 in Ireland for the Payment of any Sum of Money or Damages or
 Costs.

Arrest on
 Final Pro-
 cess abo-
 lished.

7. A Debt due to any Creditor by Judgment, Decree, or Order
 15 for *Twenty Pounds*, exclusive of Costs petitioning for an Adjudi-
 cation of Bankruptcy against a Trader liable to the Bankrupt
 Laws in Ireland, shall be a good Creditor's Debt, and sufficient for
 the Purposes of such Adjudication.

A Debt for
 20*l.*, exclu-
 sive of
 Costs, to be
 a good Peti-
 tioning
 Creditor's
 Debt in
 Bankruptcy.
 Certain Pro-
 perty of
 Debtors
 shall be
 liable to be
 attached
 under this
 Act, in addi-
 tion to Pro-
 perty liable
 to be at-
 tached
 under
 former Acts.

8. Any Salary or Income which a Debtor may have payable in
 20 Ireland, or any Money standing to the Credit of any Suit or Matter
 in any Court of Law or Equity in Ireland, to which a Debtor may
 be entitled, or any Money lodged by or to the Credit of any
 Debtor or any Trustee for him in any Bank or with any Person or
 Company in Ireland, may be attached by any Creditor of such
 25 Debtor who shall be a Creditor of such Debtor, by Judgment,
 Decree, or Order, in the same Way and to the same Extent as Joint
 Stock or other Property of a Debtor may now be attached under
 " The Common Law Procedure Amendment Act (Ireland) 1853,"
 or any Act amending the same.

- 30 9. It shall not be lawful to seize or sell under a Writ of Fieri
 facias any Tenure for Years or any Estate or Interest in Land, or
 any young Crops, Trees, Shrubs, Plants, or Vegetable Matter which
 shall not be at the Time of the Seizure severed from the Land or
 Soil.

Interest in
 Land or
 growing
 Crops not to
 be seized
 or sold
 under a
 Fieri facias.

10. Sections 116, 117, and 118 of the Act passed in the Four-
 teenth and Fifteenth Years of Her present Majesty, intitled " An
 " Act to consolidate and amend the Laws relating to Civil Bills
 " and Courts of Quarter Sessions in Ireland, and to transfer to the
 " Assistant Barristers certain Jurisdiction as to Insolvent Debtors,"
 40 are hereby repealed.

Sections 116,
 117, and
 118 of
 14 & 15 Vict.
 c. 57. re-
 pealed.

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11. After

As to Procedure in Insolvency.

How a
Debtor
under this
Act shall
proceed to
get the
Benefit of
the Insol-
vent Acts,
and what
he shall
state in his
Petition.

11. After the passing of this Act it shall be lawful for any Debtor against whom any Judgment, Decree, or Order shall have been obtained or made in any Court in Ireland, either before or after a Seizure of his Goods and Chattels under the same, to apply 5 to the Court of Bankruptcy and Insolvency in Ireland, by Petition, stating that he is unable to meet his Engagements with his Creditors, and that he is ready and willing to have all his Real and Personal Estate and Effects vested in the Official Assignees of that Court, to be distributed among his Creditors under the Directions 10 of that Court, and praying that he may be declared entitled to the Benefit of the Acts for the Relief of Insolvent Debtors in Ireland.

On filing
Petition,
Debtor to
file a Sched-
ule and
General and
Special
Balance
Sheet.

12. Within Seven Days from the Time of filing such Petition, unless the Court shall extend such Period, every such Petitioner shall deliver into Court a Schedule containing all the Matters and 15 Things now required to be stated in the Schedule required to be delivered by a Prisoner for Debt who may now, in Ireland, file a Petition to be discharged as an Insolvent Debtor; and such Petitioner shall also file a General and Special Balance Sheet, such as is now required to be filed by an Insolvent Debtor in Ireland. 20

The Insol-
vent Court
to deal with
Debtors
Petitions
filed under
this Act
as if with
Debtors
Petitions
filed under
Insolvent
Act.

13. The Proceedings in the Court of Bankruptcy and Insolvency in Ireland on such Petition shall be similar in all respects, or as near thereto as Circumstances will admit, having regard to the Provisions of this Act, to the Proceedings which may now be taken on Petitions filed by Insolvent Debtors in Ireland, and the Judges 25 of the Court of Bankruptcy and Insolvency in Ireland shall have, in respect of all Petitions presented under this Act, all the Powers they now have in respect to Petitions filed by or on behalf of Insolvent Debtors in Ireland, save so far as the same are altered or modified by this Act. 30

In certain
Cases a
Creditor to
be at liberty
to file a
Petition to
have a
Debtor's
Property ad-
ministered
in
Insolvency.

14. In case any Debtor in Ireland, or any one in trust for him, is in receipt of any Income, Pension, Wages, or Salary which cannot be seized or attached by any Process or Execution, or is possessed of or entitled to any Property of any Kind which can only be rendered available to Creditors by means of the Court of 35 Bankruptcy or Insolvency, or in case any Debtor shall fraudulently conceal any Property to evade the Payment of his Debts, it shall be lawful for any Creditor of such Debtor who may have obtained any Judgment, Decree, or Order against such Debtor to present a Petition to the Court of Bankruptcy and Insolvency in Ireland, 40 praying that all the Real and Personal Estate and Effects of such Debtor may be vested in the Official Assignees of the Court of Bankruptcy

Bankruptcy and Insolvency in Ireland, and distributed among the Creditors of such Debtor, under the Directions of that Court.

15. Such Petition shall be supported by such Evidence, by Affidavit or otherwise, of the Truth of the Matters therein stated, as the Court shall require, and shall be dealt with in the same Manner, or as near thereto as Circumstances will admit, having regard to the Provisions of this Act, as a Creditor's Petition in Insolvency is now dealt with in Ireland.

16. If such Petition shall be dismissed, and it shall also appear that such Petition was filed fraudulently or maliciously, the Court may, on the Dismissal of such Petition, order Satisfaction to be made to the Party aggrieved of the same, for the Damages by him sustained.

17. The Hearing on any Petition filed under this Act, unless by the Court specially ordered otherwise, shall take place before the Chairman of Quarter Sessions in Ireland of the County in which the Insolvent Debtor shall reside at the Time of the filing of the Petition, except where he shall reside in the County or County of the City of Dublin, and in that Case the Hearing shall take place in the Court of Bankruptcy and Insolvency at Dublin; and in respect to all Petitions filed under this Act, the respective Chairmen of Quarter Sessions in Ireland shall have and exercise all the Jurisdiction they now have and exercise in Insolvency Proceedings, save where the same is altered by this Act.

18. *As to Discharge of Insolvents and Bankrupts.*

18. Every Order of Discharge of an Insolvent shall specify whether it is an absolute Discharge or not, and the Court at the Hearing may impose such Terms as it may deem reasonable on any Insolvent Debtor as the Condition or Conditions of obtaining an absolute Discharge, save so far as the same are inconsistent with this or any former Act.

19. An absolute Discharge shall absolutely free the future acquired Property and Effects of an Insolvent Debtor from all Debts proved or proveable against him in the Insolvency Matter.

20. Whenever an Insolvent Debtor shall have made a full Disclosure of his Dealings and Affairs, and a Surrender of all his Property, to the Satisfaction of the Court, and shall have paid or shall be sufficient to pay a Dividend or Dividends of *Six Shillings and Eightpence* in the Pound upon all Debts proved in such

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Insolvency

Petition of Creditor to be verified, and to be dealt with by Court as a Creditor's Petition is dealt with under the Insolvent Act.

Court may order Satisfaction if a Creditor's Petition fraudulently or maliciously filed.

Chairman of Quarter Sessions to have Jurisdiction on Petitions filed under this Act as so Petitions filed under Insolvent Act.

Every Discharge of an Insolvent to specify whether it be an absolute Discharge or not.

An absolute Discharge shall free future acquired Property of an Insolvent.

An Insolvent Debtor entitled to an absolute Discharge if he makes full Disclosure, surrenders all Pro-

party, and
pays 6s. 8d.
in the
Pound Divi-
dend.

Insolvency, he shall be entitled to an absolute Discharge, unless he shall be directed to be imprisoned under the Provisions of this Act, and in that Case the granting of an absolute Discharge or not shall be in the Discretion of the Court.

No Debtor
to be im-
prisoned by
the Insol-
vent Court,
except for
certain Mo-
tors, when
declared en-
titled to his
Discharge.

21. Save in the Cases specified in Sections 220 and 221 of "The Irish Bankrupt and Insolvent Act, 1857," it shall not be lawful for the Court in discharging an Insolvent Debtor to impose upon such Debtor any Imprisonment as a Condition of his being discharged as an Insolvent Debtor: Provided always, that the Fact of the Insolvent Debtor being indebted for Damages recovered in any of the Actions mentioned in the said Section 221 of "The Irish Bankrupt and Insolvent Act, 1857," shall not be of itself a Ground for imposing any Imprisonment on an Insolvent Debtor as a Condition for his Discharge; and provided always, that nothing herein contained shall in any way affect the Power of the Court to enforce any Order it may make, by Imprisonment, as an Alternative or otherwise.

No Dis-
charge of
Insolvent or
Certificate
of Bankrupt
to free
future Pro-
perty unless
a 5s. Divi-
dend be
paid to the
Creditors, or
Three
Pounds of
the Cre-
ditors
assent.

22. No absolute Order of Discharge of an Insolvent Debtor shall be granted in Ireland, nor shall any Certificate of Conformity to be granted to a Bankrupt in Ireland after the passing of this Act protect any Estate, Property, Income, or Salary which a Bankrupt may acquire, possess, or become entitled to after the Date of such Certificate, unless the Estate of the Insolvent or Bankrupt shall have paid or shall be sufficient to pay in the Insolvency or Bankruptcy a Dividend or Dividends of *Five Shillings* in the Pound upon all Debts proved in such Insolvency or Bankruptcy, or unless Creditors who may prove, and whose Debts shall be equal to Three Fourths of the whole Amount of the Debts proved, shall, by Writing under their Hands, consent to such Order of Discharge or Certificate, as the Case may be.

General Provisions.

Judges of
Common
Law Courts
may frame
Writs.

23. The Judges of the Superior Courts of Common Law in Ireland, or any Six of them, may by General Order frame any new or alter any existing Writ that may become necessary under this Act, and the Execution of such new or altered Writs may be enforced in the same Manner as the Execution of Writs of Execution is now enforced.

General
Orders to
be made by
the Judges
of the Court
of Bank-
ruptcy and

24. The Judges of the Court of Bankruptcy and Insolvency in Ireland shall, as soon as conveniently may be after the passing of this Act, make General Orders for carrying the Purposes of this Act into execution, and more especially for regulating the Practice, Procedure,

Procedure, and Fees in Matters of Bankruptcy and Insolvency altered by this Act; and by General Order the said Judges may alter any Forms of Procedure now used in their Court that it may be necessary to alter, and may frame any new Forms of Procedure that it may be expedient to adopt, to give effect to the Provisions of this Act; and such General Orders may from Time to Time be altered or revoked, and new General Orders made in lieu of them, but no such General Order shall be of any Force or Effect until approved of by the Lord Chancellor of Ireland.

*Insolvency
to carry this
Act into
execution.*

- 10 25. This Act shall be cited for all Purposes as "The Abolition of Arrest (Ireland) Act, 1865."

*Short Title
of the Act.*

Arrests for Debt Abolition (Ireland).

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To abolish Arrest for Debt on Mesne and Final Process in Ireland, and to make other Provisions in relation thereto.

(Proposed and brought in by
Sir Colman O'Leary and Mr. Mearns.)

Ordered, by The House of Commons, to be Printed,
4 May 1868.

[E. 11. 186.]
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